IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.
WRIT PETITION No.1200/2007.

ICOMM Tele Ltd. **..Petitioner.**

Vs.

The Union of India
& Ors. **..Respondents.**

Mr Sridharan with Prakash Shah, Advocates for Petitioner.

Mr R. V. Desai, Senior Counsel with Mr A.S. Rao Advocate for the Respondents.

CORAM:DR.S. RADHAKRISHNAN
AND V.C. DAGA,JJ.
DATED:11TH APRIL, 2007.

P.C.:-

1. Heard the learned counsel for the petitioner and the learned counsel for respondent no.1.

2. Rule. Rule returnable forthwith by consent of the parties.

3. Mr R.V. Desai, the learned Senior Counsel for respondent no.1, waives service.

4. We have perused the order of the CESTAT Mumbai dated 25th September, 2006; wherein, in paragraph no.7, it is observed;

> "We find prima facie force in the applicants argument that Rule 2 (a) of the Interpretative Rules is not required to be applied for claiming exemption which has to be extended to the goods in the form in which they are cleared as held by the Tribunal in the case of SAB Electronics cited supra."

5. The petitioners have already deposited a sum of rupees two crores on 13.12.2006. Over and above, this deposit, they have also further deposited a sum of rupees one Crore which is the basic liability, pursuant the statement made by the learned counsel appearing for the petitioners. Therefore, the total deposit made is Rs. 3 Crores.

6. The learned Senior Counsel for the respondents confirms above further deposit of rupees one Crore on 2.3.2007.

7. There is a prima facie case made out by the petitioner. In the facts and circumstances of the case and in the interest of justice in our opinion deposit of Rs. 3 Crores will be adequate by way of pre-deposit. We modify the impugned order dated 25.9.2006 and direct that the amount of predeposit shall be in the sum of Rs. 3 Crores.

8. In view of the above, the subsequent order passed by the CESTAT Mumbai on the Stay Application Nos. 2252 to 2254 of 2006 dated 26.12.2007, the earlier order dated 25/9/2006 stands modified accordingly.

9. Both the learned counsel pray that directions be issued for expeditious hearing of appeal. We have no manner of doubt that the Tribunal will hear the above appeal with expeditious despatch.

10. The impugned order dated 25.9.2006 shall not survive in view of this order. Accordingly rule is made absolute in terms of this order. No order as to costs.

(V.C. DAGA,J.) **(DR.S. RADHAKRISHNAN,J.)**